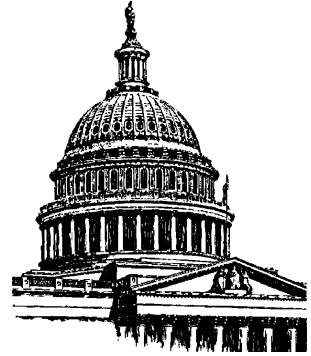


Lynn Rivers' *Capitol Corner*

106th Congress, May Edition

A newsletter by Congresswoman Lynn N. Rivers representing Michigan's
13th Congressional District



May 6, 1999

Dear Friends,

On the day I am writing this, the House is debating emergency funding for the NATO bombing operation in Yugoslavia. This question of War in the Balkans has been in the public's eye, and on Congress' agenda for some time now. The House of Representatives recently took several votes on this issue, and my votes - and the rationale for them - can be found on my website: www.house.gov/rivers.

In this newsletter I would like to address an important aspect of this controversy - the War Powers clause of the Constitution. I hope you take the time to read this article and I would be very interested in receiving any comments you may have on it.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lynn".

Lynn N. Rivers

The Power to Wage War

The Founding Fathers were explicit that the power to commit the United States' people and resources to the waging of war should lie not with a single individual but rather in the collective judgement of the Congress. It was the hope of the Founders that reserving this decision to Congress would, in fact, make it harder to move the country to war. I believe that there is still wisdom in that point of view.

By specifically placing the President in charge of the nation's defense, but at the same time making Congress responsible for the initiation of hostilities, the Founders provided for both decisive singular action and careful national deliberation in times of war. According to Jane E. Stromseth (Senior Specialist in Separation of Powers, Congressional Research Service, Library of Congress) writing in the Yale Law

(*War Powers*, page 2)

May television show focuses on War Powers

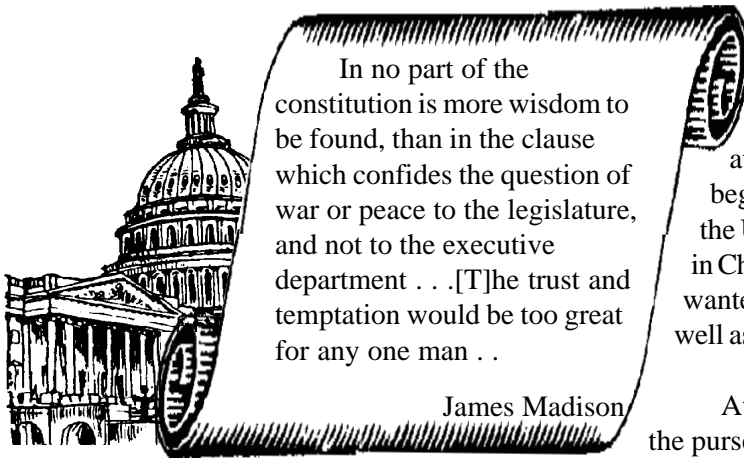
Each month my staff and I produce an informative television show that airs on cable access channels throughout the 13th District. The show features 2 or 3 expert guests who discuss current federal issues in an informative, nonpartisan manner. This month's topic is War Powers. In order to explore this issue, which has great bearing on the present situation in Kosovo, I am joined by

(*T.V. Show*, page 3)

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In no part of the constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department . . . [T]he trust and temptation would be too great for any one man . . .

James Madison

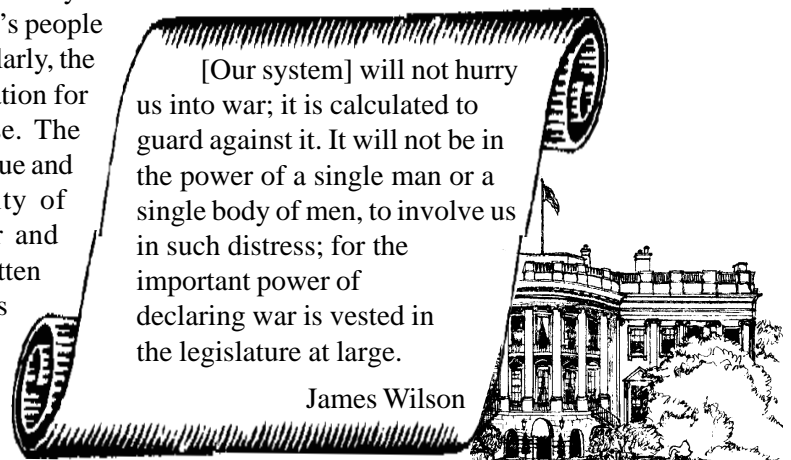
Review, "although the President could not unilaterally declare or initiate war, the Founders recognized that emergencies could arise" and reserved to the executive "the power to repel sudden attacks. They also agreed that once military action was begun - whether authorized by Congress or thrust upon the United States by attack - the President as Commander in Chief should direct the military operations. The Founders wanted not war by committee but unity of command as well as ultimate civilian accountability.

At the same time, they gave Congress the power of the purse and the power to raise and support military forces, so that the means of carrying on a war would not be in the hands of the person who would conduct it. History taught the Founders that the executive was the branch of government 'most interested in war' and 'most prone to it.' Vesting the power to declare or commence war in the legislature as a whole, including the House of Representatives, would 'clog' the path to war and permit deliberation by a diverse group of people before the nation embarked on a course so full of risks. It would also better ensure, in James Wilson's words, 'that nothing but our national interest can draw us into a war.' Including the House in the decision to initiate war also ensured that the American people, who would bear the burdens of war, had a voice in that decision through their most immediate federal representatives."

Francis Wormuth and Edwin Firmage in their historical treatise, *To Chain the Dog of War*, point out that "Congress exclusively possesses the constitutional power to initiate war, whether declared or undeclared, public or private, perfect or imperfect, de jure or de facto, with the only exception being the President's power to respond self-defensively to sudden attack upon the United States. Only in a state of war, whether initiated by hostile invasion or by congressional declaration, does the President have the right to go beyond self-defense and initiate offensive action."

Abraham Sofaer in *War, Foreign Affairs and Constitutional Power*, points out that "the Constitution says Congress shall 'declare' war, and it seems unreasonable to contend that the President was given the power to 'make' undeclared war, especially since the Constitution gives Congress control of those types of military actions short of formal war commonly resorted to during that time." He concludes that nothing in the framing or ratification debates suggests that the President, as Commander in Chief, possesses "an undefined reservoir of power to use the military in situations unauthorized by Congress."

Many observers today suggest that the current operation in Yugoslavia is not really a war. Others argue that the United States is simply trying to punish Slobodan Milosevic or degrade his ability to wreak havoc on his citizenry. Neither argument frees Congress from its duty to weigh in on the vital question of whether the nation's people and resources should be placed in harm's way. Similarly, the President is bound to seek Congressional authorization for military action, regardless of the size or purpose. The Constitution speaks to both issues through the Marque and Reprisal Clause. Jules Lobel, in the University of Pennsylvania Law Review article, "Covert War and Congressional Authority: Hidden War and Forgotten Power," argues that, at the time the Constitution was approved, "marques and reprisals" meant "any intermediate or low-intensity hostility short of declared war that utilized public or private forces. . ." As Jane Stromseth points out, eighteenth-century



[Our system] will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man or a single body of men, to involve us in such distress; for the important power of declaring war is vested in the legislature at large.

James Wilson

(War Powers, from page 2)

Did You Know ...

...Huron Township is home to the "Land of a Thousand Rainbows?"

Michigan Memorial Park, a cemetery situated along the Huron River in Huron Township, received this nickname from area residents in the 1920's.

The cemetery was one of the first to implement an underground sprinkler system, which produced the colorful spectra in addition to a healthy green lawn.

Michigan Memorial Park has also been known for hosting many community service events, ranging from Sunday morning choir performances on WJR in the 1940's, to the annual Fishing Derby for visually impaired youth, and a summer Boy Scout fund-raiser - both of which continue today.

The Wyandott Indian monument, erected in 1926, and restored in 1982, commemorates the site's original inhabitants.

statesmen and writers on the law of nations referred to reprisals, in particular, as acts of limited hostility or 'imperfect war' that interrupted the public tranquility only partially and that generally had the narrow objective of rectifying a specific injustice. The founding generation understood, however, that state reprisals could and often did lead to full-fledged or 'perfect' war."

Thomas Jefferson wrote, "[T]he making of reprisal on a nation is a very serious thing . . . [that] is considered as an act of war..." Alexander Hamilton wrote in 1798, "Anything beyond [repelling force with force] must fall under the idea of reprisals and requires the sanction of that which is to declare or make war." Stromseth concludes, "In other words, the power to commence even limited acts of war against another nation belonged explicitly to Congress because of the potentially serious consequences, most notably the risk of escalation to a wider conflict."

The imperative is clear. The U.S. Constitution requires the express authorization of the Congress to execute the current military operations in Yugoslavia. Our inaction does not create a Presidential power to act that is not already found in the Constitution. Likewise, our agreement with the North Atlantic Treaty Organization cannot instill in the U.S. presidency authority not conferred by our founding documents. I understand the political and military risks associated with waging war are great, but fear of public reaction does not justify the dereliction of Congress's constitutional duty. Similarly, the fact that many Presidents and Congresses have engaged in the unconstitutional transfer of war powers does not make our obligation any less binding. Congress is not free to amend the Constitution through its silence.

Lynn Rivers' Capitol Corner

If you would like to receive this monthly newsletter in the mail, please return the form below to:

Congresswoman Lynn Rivers
301 W. Michigan Ave., Suite 400
Ypsilanti, MI 48197

(Mr./Mrs./Ms.)

Name

Address

City, Zip

(T.V. Show, from cover)

Rep. Tom Campbell - who introduced two of the War Powers resolutions that were voted on last month, and former Rep. Lee Hamilton.

Please check your local listings for air times and dates, or call your cable provider.

Lynn is hosting the following events:



**Access
Events**



May:

*U.S. Postal Service
Information Session*

Thursday, May 27, 1999
6:00pm - 8:00pm
Ann Arbor
Community Center
625 N. Main St.
Ann Arbor



June:

*Medicare: An Overview, Medicare
and Choice, Fraud and Abuse,
and Q & A*

Wednesday, June 9, 1999
1:30pm - 3:30pm
American House
39201 Joy Rd.
Westland



Town Halls



May:

Monday, May 17, 1999
7:00 pm - 8:30 pm
Van Buren Twp. Hall
46425 Tyler Road
Belleville



June:

Tuesday, June 1, 1999
7:00 pm - 8:30 pm
Romulus High School Aud.
9650 S. Wayne Rd.
Romulus



Coffee Hours:



May:

Monday, May 17, 1999
8:30 am - 10:00 am
Bob Evans Restaurant
2411 Carpenter Rd.
Ann Arbor

Friday, May 28, 1999
8:30 am - 10:00 am
Leon's Family Dining
303 S. Wayne Rd.
Westland



June:

Monday, June 7, 1999
8:30 am - 10:00 am
Gypsy Cafe
214 North Ave.
Ann Arbor

Saturday, June 26, 1999
10:00 am - 11:30 am
Wayne Restaurant and
Coney Island
3709 Metro Place Mall
Wayne

Monday, June 28, 1999
8:30 am - 10:00 am
Mr. Mugs Coffee and Cue
217 W. Michigan Ave., Ypsilanti



Forums



May:

Privacy in Contemporary America

Saturday, May 22, 1999
10:00am - noon
Bailey Recreation Center
36651 Ford Rd., Westland



June:

Social Security: What's the plan?

Monday, June 21, 1999
7:00 pm - 9:00 pm
Wayne County RESA - Annex Building
33500 Van Born Rd., Wayne

U.S. HOUSE OF REPRESENTATIVES
Washington, DC 20515-2213

Official Business

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Lynn N. Rivers

M.C.
Bulk Rate

13th Congressional District Constituent